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3 **UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF NEVADA**

5 \* \* \*

6 Reflex Media, Inc.,

7 Plaintiff,

8 v.

9 Aaron Wallace, et al.,

10 Defendants.  
11

Case No. 2:18-cv-02423-RFB-BNW

**ORDER**

12 Defendant Aaron Wallace (“defendant”) moved to quash or limit certain subpoenas under  
13 Fed. R. Civ. P. 45. ECF No. 169. Plaintiff filed a response. ECF No. 177. Defendant replied. ECF  
14 No. 182.

15 Defendant’s motion was set for a hearing on June 24, 2020, together with other motions  
16 filed by the parties. ECF No. 186. The court asked defendant to file the actual subpoenas in  
17 question for the court to review and explained it would issue an order thereafter. *Id.* The  
18 defendant did so on June 26, 2020. ECF No. 187.

19 The Court reviewed the briefs submitted by the parties and the subpoenas attached as  
20 exhibits at ECF No. 187. The Court does not need to discuss each of the different arguments  
21 made by the parties as it agrees with plaintiff that this is not the proper court to hear these  
22 motions.

23 Federal Rule of Civil Procedure 45 governs discovery of non-parties by subpoena. Rule  
24 45 provides that a party may command a non-party to produce designated documents in that  
25 person's possession, custody, or control. Fed. R. Civ. P. 45(a)(1)(A)(iii). The place of compliance  
26 must be within 100 miles of where the different entities regularly transact business. *See* Fed. R.  
27 Civ. P. 45(c)(2).  
28

1 Rule 45 further provides that “the court for the district where compliance is required must  
2 quash or modify” an improper subpoena. Fed. R. Civ. P. 45(d)(3). Here, the place of compliance  
3 for the relevant subpoenas is: Salt Lake City, Utah; Los Angeles, California; Middletown,  
4 Delaware; and Cherry Hill, New Jersey. ECF No. 187, Exh. 1–6. The District of Nevada does not  
5 encompass any of these cities. As a result, defendant’s motion is not properly before this Court.  
6 Fed. R. Civ. P. 45(d)(2).

7 This Court is not persuaded by defendant’s argument that the non-parties have waived the  
8 right provided under Fed. R. Civ. P. 45(d)(3) by not filing an opposition with this court. The case  
9 that the Defendant relies on is distinguishable from this case: in that case all parties had consented  
10 to the issuing court—rather than the compliance court—resolving the subpoena dispute.  
11 *AngioScore, Inc. v. TriReme Medical, Inc.*, 2014 WL 6706873 (N.D. Cal. 2014) (“Here, the Court  
12 faces a unique situation where the non-party and all the parties to the action consent to having the  
13 dispute decided here; thus, were this Court to deny the motion and require its filing in the District  
14 of Colorado, the court there would likely simply transfer the motion here under Rule 45(f).”).  
15 Here, neither plaintiff nor the non-parties have consented to this Court hearing this matter. As a  
16 result, this court will deny defendant’s motion and direct him to file in the appropriate districts  
17 where compliance is required.

18 IT IS THEREFORE ORDERED that defendant’s Motion to Quash (ECF No. 169) is  
19 DENIED.

20 DATED: July 6, 2020



21  
22 BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE  
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